

Amendment No. 1 to HB2458

Curcio  
Signature of Sponsor

**AMEND Senate Bill No. 2397**

**House Bill No. 2458\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 1, is amended by adding the following as a new section:

(a) This section may be cited as the "Stop Social Media Censorship Act."

(b) As used in this section:

(1) "Algorithm" means a set of instructions designed to perform a specific task;

(2) "Hate speech" means a phrase concerning content that an individual finds offensive based on the individual's personal moral code;

(3) "Obscene" means that an average person, applying contemporary community standards, would find that, taken as a whole, the dominant theme of the material appeals to prurient interests;

(4) "Political speech" means speech relating to the state, government, body politic, or public administration as it relates to governmental policymaking. The term includes speech by the government or a candidate for office and any discussion of social issues. The term does not include speech concerning the administration, law, or civil aspects of government;

(5) "Religious speech" means a set of unproven answers, truth claims, faith-based assumptions, and naked assertions that attempt to explain such greater questions as how the world was created, what constitutes right and wrong actions by humans, and what happens after death; and

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(6) "Social media website" means an internet website or application that enables users to communicate with each other by posting information, comments, messages, or images and that:

(A) Is open to the public;

(B) Has more than seventy-five million (75,000,000) subscribers;

and

(C) From its inception, has not been specifically affiliated with any religion or political party.

(c)

(1) The owner or operator of a social media website who contracts with a social media website user in this state is subject to a private right of action by such user if the social media website purposely:

(A) Deletes or censors the user's religious speech or political speech; or

(B) Uses an algorithm to disfavor or censure the user's religious speech or political speech.

(2) A court may award a social media website user who prevails in an action under this section:

(A) A minimum of seventy-five thousand dollars (\$75,000) in statutory damages per purposeful violation of subdivision (c)(1);

(B) Actual damages;

(C) If aggravating factors are present, punitive damages; and

(D) Other forms of equitable relief.

(3) The prevailing party in a cause of action under this section may be awarded costs and reasonable attorney fees.

(4) A social media website that restores from deletion or removes the censoring of a social media website user's speech in a reasonable amount of time may use that fact to mitigate any damages.

(d) A social media website may not use the social media website user's alleged hate speech as a basis for justification or defense of the social media website's actions at trial.

(e) The attorney general and reporter may also bring a civil cause of action under this section on behalf of a social media website user who resides in this state and whose religious speech or political speech has been censored by a social media website.

(f) This section does not apply to any of the following:

(1) A social media website that deletes or censors a social media website user's speech or that uses an algorithm to disfavor or censure speech that:

(A) Calls for immediate acts of violence;

(B) Is obscene or pornographic in nature;

(C) Is the result of operational error;

(D) Is the result of a court order;

(E) Comes from an inauthentic source or involves false personation;

(F) Entices criminal conduct; or

(G) Involves minors bullying minors; or

(2) A social media website user's censoring of another social media website user's speech.

(g) Only social media website users who are eighteen (18) years of age or older have standing to seek enforcement under this section.

SECTION 2. This act shall take effect October 1, 2020, the public welfare requiring it.